

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donald Rex Young
Petitioner-Appellant,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0284
Parcel No. 23-000-14-0480

On June 18, 2012, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Donald Rex Young was self-represented. County Attorney Jon Criswell is counsel for the Board of Review. County Assessor Brian Arnold represented it at hearing. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Donald Rex Young, owner of a property located at 21489 Highway 69, Indianola, Iowa, appealed from the Warren County Board of Review regarding his 2011 property assessment. The 2011 assessed valuation is \$113,800, allocated as \$68,000 to the land and \$45,800 to the improvements. The property classification changed from agricultural to residential for the 2011 assessment.

Young protested to the Board of Review claiming (1) the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a); (2) the subject property was assessed for more than the value authorized by law under section 441.37(1)(b); (3) there was an error in the assessment under section 441.37(1)(d); and (4) that there had been a change downward in the value since the last assessment under sections 441.37(1) and 441.35. Young's

alleged error was akin to a claim of over-assessment. At hearing, Young also asserted the subject property was not assessable, is exempt from taxes or is misclassified under section 441.37(1)(c) and should be properly classified as agricultural. The Board of Review denied the protest.

Young then appealed to this Board, reasserting his claims. We note his primary contention, based on testimony at hearing, is that the property is misclassified.

The subject site is nine acres and improved with an 1184 square-foot manufactured home built in 1998. It has no basement. Additional improvements include a 440 square-foot, detached garage with a 440 square-foot shed addition built in 1960 listed in poor condition, and a 768 square-foot shed built in 1971. There are also three other animal shelters built in 1950 that have minimal or no value.

At the Board of Review hearing, Young testified that he sold his tractor and did not currently have any equipment to farm. He also indicated that when he was growing hay, he was not doing it for intended profit, but rather, he used the hay for his horses and bartered it with neighbors. He also stated he did still have a hay rake and was willing to grow the hay again if he would result in a change in his classification from residential back to agricultural.

In his hearing before this Board, Young testified he incorrectly filled out a form for the assessor's office, indicating that he was not raising livestock, was not growing any crops, did not have any land in CRP, and did not own any adjoining land. In fact, he does own an adjoining nine-acre parcel directly south of the parcel he appealed. He further indicated he received misinformation from the USDA office that told him that hay was not a crop. He testified that he had grown hay for his horses¹ and his daughter's horses. The assessor's form asked "do you raise livestock *other than horses* on this parcel," to which Young responded "no." We are aware of no real property assessment law that excludes horses from the definition of livestock; we also question why the assessor's form makes this distinction.

¹ The number of horses is unknown.

Lastly, Young noted he did own the adjoining nine acres to the south, however at the Board of Review hearing he testified that his horses currently grazed on that parcel and not the parcel that is the subject of this appeal. He also stated that the site was “too hilly to farm,” which explains why he used it as pasture.

The Board of Review did not provide any testimony at hearing.

Because Young inquired and is willing to reinvest in equipment to farm the site for hay production we believe it would be reasonable for the assessor’s office to review this parcel for the next assessment cycle. However, because Young is not currently engaged in agricultural activity on the property *with an intent to profit*, the Appeal Board finds insufficient evidence to support the claims asserted.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. *Id.* “Market value” essentially is defined as the

value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). However, if property is classified agricultural property it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code Ch. 701-71.1. Classifications are based on the best judgment of the assessor following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). “Under administrative regulations adopted by the . . . Department . . . the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the basis of its primary use.” *Svede v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1).

“Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes” except buildings which are primarily used or intended for human habitation. *Id.* r. 701-71.1(3). “Land . . . shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.” *Id.* With respect to residential real estate, these regulations provide that this includes land and buildings primarily used or intended for human habitation, including those buildings located on agricultural land. *Id.* r. 701-71.1(4).

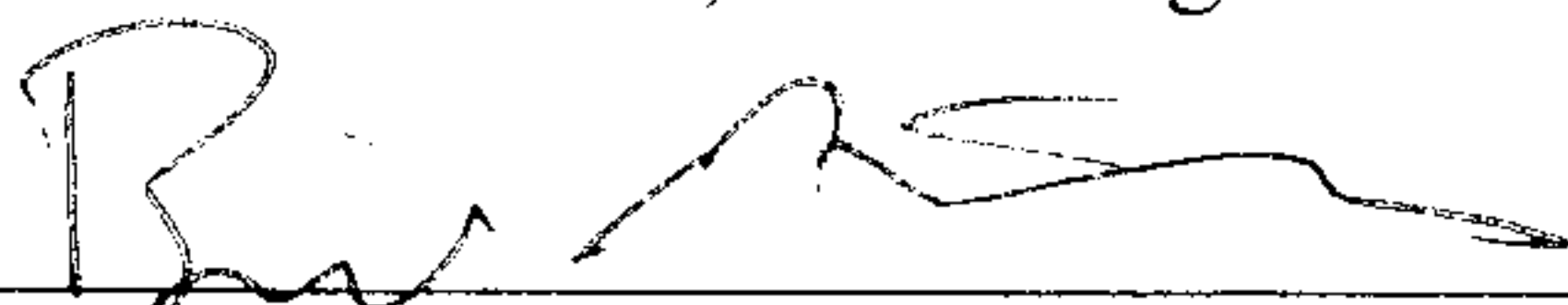
Young claims his property should properly be classified as agricultural. However, the record indicates he had sold his farming equipment; had no intent to make a profit with the hay he harvested previously; and was not currently raising hay or any other crop. Intent to profit is a component of our

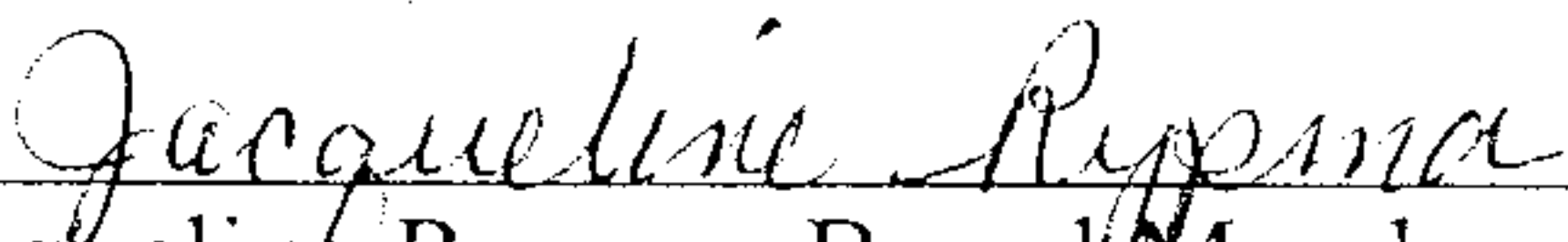
inquiry, and the record shows no such intent. Furthermore, although the parcel may be considered in conjunction with the adjoining parcel, it is not being used at this time for an agricultural purpose with an intent to profit. For these reasons we do not believe he has demonstrated that the proper classification is agricultural at this time. This does not preclude a future agricultural use of the property if agricultural activity continues or resumes *with an intent to profit*.

THE APPEAL BOARD ORDERS the residential classification and assessment of Young's property located at 21489 Highway 69, Indianola, Iowa, of \$113,800, as of January 1, 2011, set by the Warren County Board of Review, is affirmed.

Dated this 7 day of August 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Copies to:

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APPELLANT

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-7</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	